

LINDA A. RYAN, ESQ. SBN 185356
LAW OFFICES OF LINDA A. RYAN
182 Farmers Ln, Ste. 101
Santa Rosa, CA 95405
Telephone: (707) 568-7700
Facsimile: (707) 284-2697
E-mail: ryanlawoffices@comcast.net

Attorney for Jane Doe One
SPECIAL APPEARANCE

GARY HOENIG, SBN 194384
LAW OFFICES OF GARY HOENIG
182 Farmers Ln, Ste. 101
Santa Rosa, CA 95405
Telephone: (707) 542-4622
Facsimile: (707) 542-3810
E-mail: ghoenig@ap.net

Attorney for Jane Doe One
SPECIAL APPEARANCE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

HARD DRIVE PRODUCTIONS, INC.,

Plaintiff,

v.

DOES 1 - 166,

Defendants.

No. C11-03682 LHK (HRL)

Special Appearance by Jane Doe One (Sued
herein as Doe 1)

**DEFENDANT JANE DOE ONE'S CASE
MANAGEMENT STATEMENT**

Date: November 7, 2011
Time: 1:30 p.m.
Courtroom: 8
Trial Date: None

Defendant JANE DOE ONE, specially appearing by and through her counsel, hereby
submits her Case Management Conference Statement pursuant to the Court's Order Setting
Initial Case Management Conference (ECF No. 3), and Northern District of California Civil
Local Rule (hereinafter "L.R.") 16-9(a). Counsel for Plaintiff and Defendant JANE DOE ONE
conferred regarding a joint statement and are filing separate statements.

1 **1. Jurisdiction and Service:**

2 The basis for subject matter jurisdiction is Plaintiff's copyright infringement claim under
3 17 U.S.C. §§ 101, et seq., (commonly referred to as "the Copyright Act"), 28 U.S.C. § 1331
4 (granting federal courts federal question jurisdiction over civil actions arising under the laws of
5 the United States), and 28 U.S.C. § 1338(a) (granting federal courts original jurisdiction over any
6 Congressional acts relating to copyrights). Defendant reserves the right to challenge Plaintiff's
7 jurisdictional assertion. JANE DOE ONE has not been identified or served.

8 **2. Facts:**

9 Defendant JANE DOE ONE was not involved in the downloading/uploading of
10 Plaintiff's copyright works over the Internet.

11 **3. Legal Issues:**

- 12 a) Whether Defendants violated 17 U.S.C. § 101, et seq.
13 b) Whether Defendants have standing to Quash Plaintiff's subpoenas to ISPs.
14 c) Whether Defendant JANE DOE ONE'S constitutional rights to privacy protect her
15 identity, especially in light of the fact she filed a Declaration under penalty of perjury
16 establishing the fact she did not download or upload Plaintiff's work.

17 **4. Motions:**

18 On August 2, 2011, Plaintiff filed an Ex Parte Application for Leave to Take Expedited
19 Discovery. (ECF No. 5.) On August 5, 2011, Magistrate Judge Howard R. Lloyd, acting on
20 behalf of the Court, granted that Application (ECF No. 7).

21 On September 26, 2011, a Motion to Quash or Modify Subpoena was filed by an
22 anonymous movant (ECF No. 9). On September 29, 2011, Plaintiff filed its Response (ECF No.
23 10).

24 On October 3, 2011, JANE DOE ONE filed her Motion to Quash (ECF No. 11-15). On
25 October 17, 2011, Plaintiff filed its Response (ECF No. 23). On October 24, 2011, JANE DOE
26 ONE filed her reply (ECF No. 26).

27 On October 3 and October 4, 2011, two Motions of Nonparty to Quash and Vacate
28 Subpoena were filed by an anonymous movant (ECF No. 16, 17). On October 11, 2011,

1 Plaintiff filed its Omnibus Response to both motions (ECF No. 20).

2 On October 20, 2011, a Motion to Quash or Modify Subpoena was filed by an
3 anonymous movant (ECF No. 24). On October 26, 2011, Plaintiff filed its Response (ECF No.
4 28).

5 On October 20, 2011, a Motion to Quash or Modify Subpoena was filed by an
6 anonymous movant (ECF No. 25). On October 27, 2011, Plaintiff filed its Response (ECF No.
7 29).

8 **5. Amendment of Pleadings:**

9 None at this time.

10 **6. Evidence Preservation:**

11 Plaintiff claims it has taken steps to preserve evidence relevant to the issues in this action.

12 **7. Disclosures:**

13 Initial disclosures are premature as the Court has not ruled on the motions to quash.

14 **8. Discovery:**

15 Plaintiff subpoenaed information from ISPs pursuant to this Court's pre-discovery Order.

16 **9. Class Actions:**

17 Not applicable.

18 **10. Related Cases:**

19 None known at this time.

20 **11. Relief:**

21 Plaintiff seeks judgment for actual damages pursuant to 17 U.S.C. § 504(a) or statutory
22 damages up to one-hundred and fifty thousand dollars (\$150,000) pursuant to 17 U.S.C. § 504(b),
23 at the election of Plaintiff, in an amount to be ascertained at trial.

24 **12. Settlement and ADR:**

25 Settlement discussions between Plaintiff and Defendant JANE DOE ONE have not been
26 successful.

27 The Court scheduled an ADR Phone Conference for November 2, 2011.

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1 **13. Consent to Magistrate Judge for All Purposes:**

2 Defendant JANE DOE ONE does not consent.

3 **14. Other References:**

4 None that Defendant JANE DOE ONE can identify at this time.

5 **15. Narrowing of Issues:**

6 Defendant JANE DOE ONE is not aware of any issues that can be narrowed by
7 agreement or by motion, suggestions to expedite the presentation of evidence at trial or requests
8 to bifurcate issues, claims or defenses at this time.

9 **16. Expedited Schedule:**

10 Defendant JANE DOE ONE does not believe that the case can be handled on an
11 expedited schedule.

12 **17. Scheduling:**

13 Scheduling is premature as defendants have not been served.

14 **18. Trial:**

15 Unknown at this time. If 166 Doe defendants appear, trial will take several months.

16 **19. Disclosure of Non-party Interested Entities or Persons:**

17 Plaintiff filed its Certification of Interested Entities or Persons.

18 **20. Other Matters:**

19 None.

20 Dated: October 26, 2011

21 LAW OFFICES OF LINDA A. RYAN
22 182 Farmers Ln., Ste. 101
23 Santa Rosa, CA 95405

24 /s/ Linda A. Ryan
25 LINDA A. RYAN, ESQ.

26 Specially appearing as Attorney for
27 Defendant JANE DOE ONE
28

CERTIFICATE OF SERVICE

I, Tiffany Avila, declare:

I am a citizen of the United States and a resident of the County of Sonoma, State of California. I am over the age of eighteen years and not a party to the within above-entitled action; my business address is 182 Farmers Lanes St. 101, Santa Rosa, CA 95405. On the date given I served the following:

1. Defendant Jane Doe One's Case Management Statement

on all the interested parties in said action as follows:

Brett L. Gibbs, Esq.
STEELE HANSMEIER PLLC
38 Miller Avenue, #263
Mill Valley, CA 94941
Telephone: (415) 325-5900
blgibbs@wefightpiracy.com

John Steele, Esq.
STEELE HANSMEIER PLLC
161 N Clark St., Ste. 3200
Chicago, IL 60601
Telephone: (312) 880-9160
jlsteele@wefightpiracy.com

X BY FIRST CLASS MAIL (C.C.P. §§1005;1013a, et seq.):

I caused a true copy of said document(s) to be deposited in a U.S. mail box in a sealed envelope with postage thereon fully prepaid in the City of Santa Rosa, State of California, after the close of the day's business.

BY FACSIMILE (C.C.P. §§1005(b);1012.5 et seq.):

I caused said document(s) to be telecopied to each addressee's facsimile number.

BY FEDERAL EXPRESS NEXT DAY DELIVERY (C.C.P. §§1005(b),1013 (c)(d), et seq.):

I caused said document(s) to be deposited with an express service carrier in a sealed envelope designated by the carrier as an express mail envelope, with fees and postage pre-paid and reasonably calculated to ensure delivery to the addressee not later than the close of the next business day.

BY HAND DELIVERY/PERSONAL SERVICE (C.C.P. §§1005;1011, et seq.):

I caused said document(s) to be personally delivered to each addressee.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: October 31, 2011

/s/ Tiffany Avila
TIFFANY AVILA